

FCC MAIL ROOM

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Before the
Federal Communications Commission

Washington, D.C. 20554

In the Matter of)
) WT Docket No. 96-199
Amendment of Part 90 Concerning the)
Commission's Finder's Preference Rules)

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By Joseph P. Bartelme, Neches Communications, Inc.

Comment

We do not believe the finder's preference requests which are pending at the Commission should be canceled for the following reasons:

Background

I have owned a wireless communications dealership in the Beaumont, Texas area for four years. It is a small business (seven employees) which serves only the local area. For three years I have been searching for five SMR channels to cover this area. Even though the market area contains only 350,000 people all of the SMR channels are licensed. Many of them are not constructed and several of the constructed systems are not providing service to any subscribers. Yet I have been locked out of providing trunked service to my customers. There are just four viable providers of SMR in this area: Nextel, Pittencrieff, and two of my local competitors. None of them are willing to allow me to load their systems at a price point where I can make a profit and be competitive. They quote me air-time at the same price as they quote their direct customers.

Nineteen months ago I filed a finder's preference request (95F800) for a five channel 800 MHz SMR system which I contend was not constructed. I spent a considerable amount of time and money to study the various unconstructed systems in this area and to gather information on several target violators before choosing one and then spent more time to

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gather information to justify my request. In the past nineteen months I have called the FCC several times to monitor the progress of my finder's preference request. I have also spoken with my federal representatives and several people in the industry to find out if there was something I could do to expedite a decision. Meanwhile my business has lost numerous opportunities to provide 800 MHz SMR service to local businesses. During this time I have had several of my private carrier repeater customers sign up with my competitors because they wanted the convenience of SMR and I could not provide it.

Concluding Comments:

WT Docket no. 96-199 seems to give the FCC the right to cancel my finder's preference request. I do not believe canceling finder's preference requests would be fair to myself or other small businesses like myself for the following reasons:

- 1) This finder's preference request is the only way I will be able to get an SMR license or to sell SMR service. From what I have seen from the auctions; my "very small" business could not afford to bid. Also from the attitude of those who presently hold licenses in my area there is very little likelihood that I would be able to negotiate a profitable arrangement which would allow me to sell onto an auction winner's system or be able to buy part of their system if partitioning of a geographic area is allowed. It is not my fault I have not been able to obtain a license. I have been trying for three years; the speculators and channel accumulators have blocked me from providing service.
- 2) The time and money I spent to submit my request and the business opportunities which I lost due to inattention while submitting the request will be wasted.
- 3) Unless the FCC investigates the evidence which I submitted and makes a decision to cancel the license of the target of my request the target will profit by holding a license which they did not construct. If the FCC decides that the license should be canceled then I should be awarded the license. I have been prevented for almost three years (the time the target has held the license) from efficiently using the spectrum to provide service to local businesses.

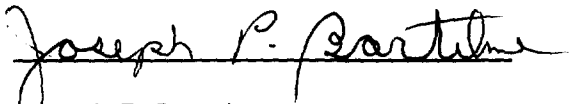
Furthermore, cancellation of the finder's preference requests will not serve the public interest for the following reasons:

1) The 800MHz SMR spectrum has become dominated by essentially one carrier. If Nextel purchases Pittencrieff then this area will have just three SMR providers. Further consolidation is likely because one of the local providers has talked about selling to Nextel. This situation is not limited to this area. I have been told the New Orleans area is completely controlled by Nextel with only 28 channels controlled by others. Granting the finder's preference requests will further the FCC's objectives to promote competition and also to promote small business.

2) Granting finder's preference requests, when warranted, will result in faster construction of systems than would result from waiting for auctions to occur and then waiting for construction. This is especially true for a small market area such as ours. An auction winner will probably build out the large markets first.

Respectively submitted,
Neches Communications, Inc.

By



Joseph P. Bartelme
President
Neches Communications, Inc.
POB 8278
Lumberton, Texas 77657

Dated: November 9, 1996